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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/821,060	03/29/2001	John Zimmerman	US010076	5337

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EXAMINER

SALTARELLI, DOMINIC D

ART UNIT PAPER NUMBER

2623

DATE MAILED: 08/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/821,060

Applicant(s)

ZIMMERMAN, JOHN

Examiner

Dominic D. Saltarelli

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 9-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 14, 2006 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 1-7 and 9-20 have been considered but are moot in view of the new grounds of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-5, 7, and 9-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosser (6,446,261) in view of Barrett et al. (6,005,597, of record) [Barrett] and Herz et al. (5,754,939) [Herz].

Regarding claims 1, 7, 11-18, Rosser discloses a television program profile interface having a multiplicity of axes (figs. 3 and 5), including a television viewer profile represented by weighted viewer preferences that proportionately change with respect to on axis of the multiplicity of axes (col. 9 line 49 – col. 10 line 5).

Rosser fails to disclose the one of the multiplicity of axes has an altering mechanism allowing a value associated with a position on the axis to be changed along the axis, wherein at least one of the multiplicity of axes represents at least one of an environmental condition, a viewer task other than television viewing, and a mood of the viewer, and the television viewer profile weighted viewer preferences have an activation mechanism that allows for viewer selection and manipulation of the television viewer profile weighted viewer preferences.

In an analogous art, Barrett teaches a user profile interface that includes an altering mechanism allowing a value associated with viewer interest to be changed (the value being user interest in a program, col. 13, lines 7-11) and an activation mechanism that allows for user selection and manipulation of the information, providing the benefit of enhanced user control over their recorded interest in programming (col. 14, lines 9-13).

It would have been obvious at the time to a person of ordinary skill in the art to modify the interface of Rosser to include an altering mechanism allowing a value associated with a position on the axis to be changed along the axis and an activation mechanism that allows for viewer selection and manipulation of the

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information along the axis, as taught by Barrett, for the benefit of enhanced user control of preference data.

Rosser and Barrett fail to disclose one of the multiplicity of axes represents at least one of an environmental condition, a viewer task other than television viewing, and a mood of the viewer.

In an analogous art, Herz teaches a user profiling engine that tracks user's short term interests, such as mood of the user (col. 27 line 44 – col. 28 line 7), providing a profile which can more accurately predict user interest in programming (col. 19, lines 42-48).

It would have been obvious at the time to a person of ordinary skill in the art to modify the interface disclosed by Rosser and Barrett to include as an axis, the mood of the viewer, as taught by Herz, for the benefit of providing a more accurate profile of a user and said user's interests in programming.

Regarding claims 2 and 9, Rosser, Barrett, and Herz disclose the interface of claims 1 and 7, wherein one of the axes comprises time (Rosser, col. 9, lines 3-5).

Regarding claims 3 and 4, Rosser, Barrett, and Herz disclose the interface of claims 1 and 2, wherein said weighted viewer preferences are represented by bar graphs (Rosser, figs. 3 and 5).

Regarding claims 5, 10, 19 and 20, Rosser, Barrett, and Herz disclose the interface of claims 1, 7, and 9, wherein each of said weighted viewer preferences is individually viewer modifiable (Barrett, col. 14, lines 9-13, where the adjustment of interest in a program is to adjust along the time axis 126 disclosed by Rosser, col. 9, lines 3-5).

5. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rosser, Barrett, and Herz as applied to claim 1 above, and further in view of Alexander et al. (6,177,931) [Alexander].

Regarding claim 6, Rosser, Barrett, and Herz disclose the interface of claim 1, but fail to disclose means for viewer interaction to alter a topic selection presented by the television viewer profile to provide said weighted viewer preferences sorted by a selected topic.

In an analogous art, Alexander discloses providing means to a user to alter topic selection of presented programming information to provided a sorted display according to a selected topic (fig. 7, col. 7, lines 46-56 and col. 15, lines 33-39), proving the benefit of enhanced user control over displayed information.

It would have been obvious at the time to a person of ordinary skill in the art to modify the interface of Rosser, Barrett, and Herz to include means to a user to alter topic selection of presented information to provided a sorted display according to a selected topic, as taught by Alexander, for the benefit of enhanced user control over displayed viewer profile information.

Conclusion

6. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

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Certificate of Mailing

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Certificate of Transmission

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(Date)

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Signature: _____

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dominic D. Saltarelli whose telephone number is (571) 272-7302. The examiner can normally be reached on Monday - Friday 7:00am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DS



JOHN MILLER
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